

# AMHERST ZONING PRIMER

## *Everything You Always Wanted to Know about Zoning But Were Afraid to Ask*

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### **What is zoning?**

Zoning is the way a community regulates the use of land. Zoning regulations allow a community to control *where* different uses occur and *under what circumstances*.

### **Why do we need zoning?**

Zoning allows the town to group uses according to their compatibility and to separate them in ways that protect the health, safety and general well-being of the community.

### **What is the Zoning Bylaw?**

The Zoning Bylaw is the whole body of zoning regulations that have been passed by Town Meeting. It includes the Zoning Map, Land Use Charts, definitions and other regulations pertaining to the various districts.

### **How does zoning work?**

The Zoning Map divides the town into districts and assigns each district a zoning designation such as Commercial, General Business, or Neighborhood Residence. Every piece of land in the town is assigned to one of these districts.

### **Is there some logic to the differences among districts?**

Yes. In districts nearer the center of town and around village centers the Zoning Bylaw allows more commercial use and denser development. With certain exceptions, development away from these centers is restricted to larger lots and to residential and agricultural uses.

### **How can you find out what a zoning designation means?**

The Zoning Bylaw contains a general description and a use chart for each district. They show how each category of land use -- such as a farm, a factory, a school, or a multiple-unit dwelling -- is regulated (or not regulated) in that district.

### **In what ways are land uses regulated?**

They can be regulated as to *whether* they are allowed and as to *how* they are restricted.

### **Tell me about *whether*.**

In a given district, each use or category of use is shown on the use chart as being one of the following:

- allowed by right
- allowed by right with Site Plan Review (SPR)
- allowed only with a Special Permit (SR)
- prohibited

### **Does being “allowed by right” mean that there are no restrictions at all?**

No. All uses that involve development (such as construction of buildings or roads) are subject to certain minimums of lot size, frontage on public ways, and distance from buildings to boundaries. There are limits to building dimensions, lot coverage, and other

factors involving intensity of development.. These and other restrictions vary according to district.

### **How are these restrictions enforced?**

Any construction within the town requires a building permit, which must be obtained from the Town's Inspection Services Department. Plans, sites, materials, and construction are subject to inspection by Town inspectors.

### **What is a Site Plan Review?**

Some uses that are allowed by right may be shown in the Use List as requiring a Site Plan Review. The Site Plan Review is conducted by the Planning Board prior to the issuance of a building permit. The Planning Board cannot disallow the use entirely, but it can attach conditions to the permit. These conditions are intended to minimize any negative impact which the development might have and to enhance its compatibility with neighboring uses.

### **What is a Special Permit?**

When a particular use is neither prohibited nor allowed by right, it is shown on the use chart as requiring a Special Permit. This means that the owner cannot proceed with that use without the explicit permission of the Zoning Board of Appeals (ZBA). Permission is granted only after a hearing and it is not always granted.

### **How does the Zoning Board of Appeals decide whether to issue a Special Permit?**

It holds a public hearing after first notifying the owners of adjacent properties (known as abutters). After reviewing applicable laws and regulations and considering the proposed development's potential impact on its surroundings, the ZBA issues a ruling. It either denies the use entirely or grants a permit with conditions as to how the site will be developed and how the use will be conducted.

### **What do the Planning Board and the ZBA have in common?**

Both are appointed boards, made up of citizens serving terms of fixed duration. Both have permitting processes that require notification of abutters and a public hearing.

### **How do the roles of the Planning Board and the ZBA differ?**

The Planning Board is the permitting authority for Site Plan Review and the ZBA is the permitting authority for Special Permits. Planning Board members are appointed by the Town Manager and members of the ZBA are appointed by the Select Board.

### **What are the specific responsibilities of the Planning Board?**

The Planning Board carries out broad planning functions for the Town such as developing a town-wide Comprehensive Plan. The Planning Board proposes updates and technical corrections to the Zoning Bylaw. The planning Board is the permitting authority for all subdivisions, creation of building lots, Site Plan Reviews, and Special Permits for Cluster developments.

### **What are the specific responsibilities of the ZBA?**

The ZBA is charged with implementing the Zoning Bylaws as written by the Planning Board and approved by Town Meeting. It is the appeal board for decisions made by the Amherst Building Commissioner. The ZBA is the permitting authority for Special Permits involving discretionary uses with unusual characteristics or impacts. The ZBA may grant Variances the Zoning Bylaw under specific criteria.

### **How can the Zoning Bylaw be changed?**

Changes to the Zoning Bylaw are made by Town Meeting.

### **Why does Town Meeting have to vote on zoning changes?**

Massachusetts General Laws (chapter 40A) require that all amendments to Amherst's Zoning Bylaw be approved by Town Meeting. Zoning amendments must be approved by a two-thirds majority vote.

### **What kinds of changes can be made to the Zoning Bylaws?**

Town meeting can:

- Reassign an area of land from one district to another
- Define and create a new district, as was done in the case of Village Center and Fraternity Residence
- Change whether a specific use is permitted within an existing district
- Add or remove the requirements for a Special Permit or a Site Plan Review that apply to a specific use within an existing district
- Change the restrictions on a specific use within an existing district
- Create or remove an *overlay*, which sets special regulations for part of an existing district
- Correct errors, inconsistencies, or unintended omissions in the Bylaw

### **Who can submit a zoning amendment to Town Meeting?**

Any of the following can have a zoning amendment article placed on the Town Meeting warrant:

- The Select Board
- The Zoning Board of Appeals
- The Planning Board
- A Regional Planning Agency, such as the Pioneer Valley Planning Commission
- A landowner requesting a change affecting his or her property
- Ten registered voters by petition to bring an amendment before an Annual Town Meeting
- 100 registered voters by petition to bring an amendment before a Special Town Meeting

### **How does a request for a zoning amendment get filed?**

A request for a zoning amendment must be submitted to the Select Board, which will submit it to the Planning Board for review. Petition forms for zoning amendments are available at the [Select Board Office / Town Clerk's Office].

### **What does the Planning Board have to do before a proposed zoning change comes to Town Meeting?**

State law requires the Planning Board to hold a public hearing and to make a recommendation to Town Meeting on any proposed zoning amendment.

### **Can Town Meeting approve a zoning change by a majority vote?**

No. All zoning amendments require a **two-thirds** majority vote of Town Meeting.

### **Is it true that Town Meeting must wait two years before again considering a zoning amendment it has voted down?**

A defeated zoning amendment cannot be brought back to Town Meeting for two years unless it is approved by the Planning Board after being voted down by Town Meeting. The two-year restriction does not apply to amendments that are dismissed, rather than defeated, by Town Meeting.

### **When does a zoning amendment approved by Town Meeting go into effect?**

Amendments to the Zoning Bylaw are effective immediately upon approval by Town Meeting. They are, however, subject to review and approval by the Massachusetts Attorney General.